

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-----------------|-------------------------------------|------------------|------|
| Application No. | : 10/792,061                        | Confirmation No. | 4209 |
| Applicant       | : Scott D'Avanzo                    |                  |      |
| Filed           | : March 2, 2004                     |                  |      |
| Title           | : GAMING MACHINE AND METHOD OF PLAY |                  |      |
| TC/A.U.         | : 3711                              |                  |      |
| Examiner        | : Eric Thomas                       |                  |      |
| Docket No.      | : 087635.000017                     |                  |      |
| Customer No.    | : 29747                             |                  |      |

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Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

**APPEAL BRIEF**

Commissioner:

This Appeal Brief is being filed in response to the Notice of Appeal filed December 14, 2010 in the above-identified application.

Please apply the appeal brief fees previously paid. The Commissioner is hereby authorized to charge any underpayment of fees, or credit any overpayments, that may be required by this paper to Deposit Account No. 502466.

**Table of Contents:**

1. Real party in interest pages 3 to 3
2. Related appeals and interferences page 4 to 4
3. Status of claims pages 5 to 5
4. Status of amendments pages 6 to 6
5. Summary of claimed subject matter pages 7 to 8
6. Grounds of rejection to be reviewed on appeal pages 9 to 9
7. Argument pages 10 to 13
8. Claims appendix page 14 to 15
9. Evidence appendix pages 16 to 16
10. Related proceedings appendix pages 17 to 17

1. **Real Party in Interest:**

The real party in interest is Adrenalin Gaming, LLC, the assignee of record.

**Related Appeals and Interferences:**

None.

**Status of Claims:**

Claims 1-6 and 26-30 are pending. Claims 7-25 have been canceled. Claims 1, 4, 6, 26 and 29 have been rejected by the Examiner in an Office action dated September 14, 2010 from which the appellant initiates this appeal. Claims 2, 3, 5, 27, 28 and 30 were allowed.

Appellant is appealing the rejection of claims 1, 4, 6, 26 and 29.

**Status of Amendments:**

The amendment filed August 15, 2007 has been entered in the record.

**Summary of Claimed Subject Matter:**

Claim 1 recites a gaming machine comprising:

a mechanical component [paragraph [0031] identified by reference numeral 110 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 300 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 400 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 510 and shown in Figs. 10-12], said mechanical component having a dynamic member [paragraph [0031] identified by reference numeral 120 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 305 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 410 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 520 and shown in Figs. 10-12] operable to conceal a display device [paragraph [0033] identified by reference numeral 250 and shown in Fig. 3b; paragraph [0036] identified by reference numeral 320 and shown in Fig. 6; paragraph [0037] identified by reference numeral 430 and shown in Fig. 9; and paragraph [0038] identified by reference numeral 530 and shown in Fig. 12], said display device integrated with said mechanical component [paragraphs [0033] through [0038]; and

wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award [paragraphs [0033] through [0038].

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display [paragraph [0035] and Figs. 1-3].

Claim 26 recites a method of playing a gaming machine comprising:

activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12]; and

in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12].

Claim 29 recites the method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].



**Grounds of Rejection to be Reviewed on Appeal:**

Whether claims 1, 4, 6, 26 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0180716 to Seelig et al., in view of U.S. Patent No. 6,394,901 to Marta.

## **ARGUMENTS**

Claims 1, 4, 6, 26 and 29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0180716 to Seelig, et al., in view of U.S. Patent No. 6,394,901 to Marta.

In general, the embodiments of the present invention relate to a gaming machine having a mechanical component with a dynamic member. Integrated with the mechanical member is a display device. The configuration of the dynamic member and the display device allows the display device to remain concealed when in a dormant state (e.g., no winning outcome) and exposed in an active state (e.g., responsive to a winning outcome). Using the embodiment shown in Figs. 1-3, the mechanical component is the pair of arms 110 extending from the gaming machine 100. The hands 120 are the dynamic members which have the display device 250 concealed therein. When the hands 120 are closed, the display device 250, is not visible. Accordingly, when an award is to be provided to the player, the hand 120 opens to reveal the display and the displayed award. Other embodiments of the present invention are described in the specification and drawings, and referenced below.

Claims 1, 4 and 6 are directed to the gaming machine configuration while claims 26 and 29 are directed to a method of utilizing such a gaming machine. Independent claim 1 recites “wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award” and independent claim 26 recites “in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component.” The examiner admits that Seelig fails to disclose the mechanical component concealing the display device. To address the lack of disclosure by Seelig, the examiner cites Marta.

Marta discloses a gaming device including a mechanical hand configured to roll dice. The dice appear to be concealed prior to being rolled. The examiner equates this with the aforementioned claim language. However, the aforementioned claim language is directed to concealing a display device with a dynamic member and subsequently revealing the display device

to reveal an award. The dice of Marat are not a display device. Indeed, Marat specifically discloses a separate, unconcealed display device which displays an award. Specifically Marta states, “[T]he apparatus includes *means for displaying...total winnings, if any, accrued from the initial throw of the dice and through subsequent play of the game...*” (see, paragraph column 3, lines 49-52). Therefore, the mechanical hand does not open to reveal a display device. Even assuming arguendo the dice are considered a display device, the outcome of the dice roll is not known until the dice tumble from the hand to pit area 32. In other words, the mechanical hand of Marat does not reveal the display device (e.g., dice) to display an award as recited in independent claims 1 and 26.

Consequently, neither Seeling nor Marta discloses, as recited in independent system claim 1, that *the dynamic member is operable to conceal a display device wherein said display device is integrated with said mechanical component*. Nor does the combination of Seeling and Marta disclose wherein upon activation of the mechanical component *said dynamic member moves to reveal the display device*. Similarly, the combination of Seelig and Marta fails to disclose, as recited in independent method claim 26, causing *said dynamic member to move to reveal a display device substantially concealed therein*, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, *said display device integrated with said mechanical component*. That is, the display devices of Seelig and Marta are always viewable (i.e., revealed) albeit possibly blank when not activated.

The examiner indicates that the aforementioned features wherein the dynamic member conceals and reveals the display device responsive to a gaming machine award event are obvious design choices since mechanically concealing the display compared to displaying a concealed symbol electrically or graphically would bring similar results to the operation of the game. While the results may be the same (i.e., identification of an award), such a position is short-sighted in that many patented gaming machine features are utilized to identify an award. Integrating the display devices in the mechanical member such that they are concealed until activated when they are revealed is a structural advance over Seelig and Marta. First, the claimed structure allows more versatility for the gaming machine designer. As set forth in the present application the mechanical member may take many forms including arms [Figs. 1-3], flowers [Figs. 3-6], bottles [Figs. 7-9] and a jack-in-the-box [Figs. 10-12] while the dynamic members are hands [Figs. 1-3], petals [Figs. 3-6],

caps [Figs. 7-9] and clown [Figs. 10-12], respectively. Any number of designs is conceivable within the embodiments of the present invention. Second, the concealment and revelation of the display device creates additional player interest and anticipation thereby increasing play of the gaming machines. Third, the use of such mechanical components having a display device integrated into a dynamic member allows a more interactive award feature also increasing play of the gaming machine. For example, the player may pick a hand to reveal a game award. Attracting players is the primary objective of gaming machines. The more players that are attracted to the gaming machines, the more revenue for the casino. The Seelig and Marta designs are limited and do not offer the benefits of the embodiments of the present invention.

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award. Nothing in Seelig or Marta discloses the player selecting a hand to reveal a symbol related to a gaming machine award. Seelig does disclose an ability for the player to select an indicator position (paragraph [0128]), but not an ability to select a hand which conceals a display device. The same arguments applicable to claim 4 apply the claim 29.

Based on the foregoing arguments, the combination of Seelig and Marta cannot render claims 4 or 29 unpatentable. Moreover, claim 4 is dependent upon allowed claim 3 so claim 4 cannot be rendered unpatentable by the combination of Seelig and Marta. Likewise, claim 29 is dependent upon allowed claim 28 so claim 29 cannot be rendered unpatentable by the combination of Seelig and Marta.

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display. Applicant incorporates by reference the arguments relative to claim 1 herein since claim 6 is dependent therefrom. Moreover, claim 6 is dependent upon allowed claim 2 so claim 6 cannot be rendered unpatentable by the combination of Seelig and Marta.

Based on the foregoing, the combination of Seelig and Marta cannot render claims 1, 4, 6, 26 and 29 unpatentable. To reiterate, the combination of Seelig and Marta does not disclose a display device integrated in a mechanical member such that a dynamic member is able to *conceal and reveal* said display device based on the gaming machine operation.

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Date: February 14, 2011

**Claims Appendix:**

1. A gaming machine comprising:  
a mechanical component, said mechanical component having a dynamic member operable to conceal a display device, said display device integrated with said mechanical component; and  
wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award.
2. The machine of claim 1 wherein said mechanical component comprises one or more arms extending from said gaming machine.
3. The machine of claim 2 wherein said dynamic member comprises one or more hands joined to said arms.
4. The machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.
5. The machine of claim 4 wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device.
6. The machine of claim 2 wherein the one or more arms support a watch having a display.
26. A method of playing a gaming machine comprising:  
activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome; and  
in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component.
27. The method of claim 26 wherein said mechanical component comprises one or more arms extending from said gaming machine.

28. The method of claim 27 wherein said dynamic member comprises one or more hands each joined to the arms.

29. The method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.

30. The method of claim 29 wherein upon selection of one or more of the hands, the corresponding hand opens to reveal the display device.

**Evidence Appendix:**

None.



**Related Proceedings Appendix:**

None.